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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,851	12/21/2001	Tom R. Belau	KCC 4844 (KC# 16,629)	4045
7590	04/23/2004		EXAMINER	
Senniger, Powers, Leavitt & Roedel One Metropolitan Square 16th Floor St. Louis, MI 63102			SALVATORE, LYNDA	
			ART UNIT	PAPER NUMBER
			1771	

DATE MAILED: 04/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/036,851	BELAU ET AL.
Examiner	Art Unit	
Lynda M Salvatore	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 06 January 2004.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-9,11-25,27-36 and 38 is/are pending in the application.
4a) Of the above claim(s) 39 and 42-61 is/are withdrawn from consideration.
5) Claim(s) 10 and 26 is/are allowed.
6) Claim(s) 1-9,11-25,27-36 and 38 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date

- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to the rejections of claims 1-36 and 38 as set forth in sections 7-9 of the last Office Action have been considered but are moot in view of the new ground of rejection set forth below.

Election/Restrictions

2. Claims 39 and 42-61 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected disposable article, process for making an un-bonded non-woven fabric and mechanical fastener, there being no allowable generic or linking claim. Election was made **without** traverse on 01/08/2004

Claim Objections

3. Claim 8 is objected to because of the following informalities: Claim 9 is also recited with claim 8. It is suggested to delete all of language following the number "9" located on line 5. Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 1-9, 11-25,27-36, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stokes et al., US 5,858,515 in view of Roxendal et al., WO 99/27879.

The patent issued to Stokes et al., teaches a patterned un-bonded non-woven fabric having continuous bonded areas defining a plurality of discrete unbonded areas , which is suitable for use as an improved loop fastening material for hook and loop fastening systems (Abstract). Stokes et al., teaches that discrete unbonded areas function

as fluid flow points or channels (Column 5, 1-15). Stokes et al., discloses that the fibers within the discrete unbonded areas are dimensionally stabilized by the continuous bonded areas that surround each unbonded area (Column 3, 5-10). The patterned non-woven fabric may be a spun-bonded non-woven, air-laid, or bonded carded web made from single, multi-component filaments, melt-spun or staple fibers (Column 3, 20-25, Column 7, 1-20 and Column 9, 50-55). The patterned un-bonded non-woven fabric is also highly suited for use as a filtration material, a fluid management or distribution material for personal care absorbent articles (Column 4, 61-65). Stokes et al., also teaches the patterned unbonded non-woven web can be attached or bonded to a layer of film (Column 6, 15-20). With regard to claim 9, Stokes et al., teaches securing the patterned unbonded to an outer layer and a body liner to form a disposable personal care article (Column 13, 5-30). Suitable liner materials include non-woven webs (Column 13,25-27). The percent of bond areas ranges from about 25% to about 50% (Column 11, 64-67).

With regard to claim the “adapted to” phrase recited in 22, it has been held that the recitation that an element is “capable of” performing a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re Hutchison*, 69 USPQ 138

Stokes et al., fails to specifically teach the limitations of a first plurality of discrete unbonded areas and a second plurality of discrete unbonded areas wherein the second discrete unbonded area has a characteristic that is different from the first plurality of discrete unbonded areas, however, Roxendal et al., teaches an absorbent article comprising a layer which has been bonded together in a bonding pattern (Abstract). Roxendal et al., specifically teaches that the bonding pattern can be the same across the

layer or be different in parts thereof (Page 7, 16-17). More specifically, the bonding pattern can be more sparse in the wetting area and be more dense outside the wetting area or the bonding pattern design can be in such a pattern to produce areas of differing thickness (Page 7, 18-21). With regard to claim 24, it is the position of the Examiner that based on the teachings of Roxendal et al., to create more sparse or more dense regions, it would be obvious to one having ordinary skill in the art to provide a gradient between regions to produce a third region.

Therefore, motivated by the desire to produce an absorbent article having varying wetting capabilities it would have been obvious to one having ordinary skill in the art at the time the invention was made to pattern bond the non-woven article of Stokes et al., in the manner taught by Roxendal et al.

With regard to specific regard to claims 11,15,27 and 31, it is the position of the Examiner that Roxendal's et al, teaching to bonding patterns that be the same across the layer or be different in parts thereof would inherently provide the instantly claimed tensile strength and stiffness limitations.

With regard to claims 12-14,16,17, 28-30, 32 and 33,Roxendal et al., fails to explicitly teach the claimed tensile strength values, however, it would have been obvious to one having ordinary skill in the art at the time the invention was made to optimize the tensile strength and stiffness of the non-woven layer as a function of desired strength, density, durability and integrity. It has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272,205 USPQ 215 (CCPA 1980)

Art Unit: 1771

Allowable Subject Matter

6. Claims 10 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Specifically the combination of prior art fails to teach the having regions of differing opacity. Presently, there is no motivation to combine references to form an obvious type rejection.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1482. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 12, 2004



CHERYL A. JUSKA
PRIMARY EXAMINER

